

Introduced by Senator Wright

December 19, 2012

An act to add Chapter 5.2 (commencing with Section 19990.01) to Division 8 of, and to repeal Sections 19990.23.5 and 19990.96 of, the Business and Professions Code, relating to Internet gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 51, as introduced, Wright. Internet gambling.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. The Department of Justice has related investigatory and enforcement duties under the act. Any violation of these provisions is punishable as a misdemeanor, as specified.

This bill would establish a framework to authorize intrastate Internet gambling, as specified. The bill would authorize eligible entities to apply to the commission for a 5-year license to operate an intrastate Internet gambling Web site offering the play of authorized gambling games to registered players within California. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not authorized by the state pursuant to this bill. The bill would provide that any violation of its provisions is punishable as a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require a license applicant to pay an application deposit to the commission, for deposit into the Internet Gambling Licensing Fund, as created by the bill, to be continuously appropriated to the

department and the commission for the reasonably anticipated costs of investigating the applicant and evaluating the suitability of the applicant. The bill would also create the Internet Gambling Fund, for the deposit of an unspecified regulatory fee, which would be administered by the Controller subject to annual appropriation by the Legislature for the actual costs of license oversight, consumer protection, state regulation, problem gambling programs, and other purposes related to this bill, and which would not be subject to the formulas established by statute directing expenditures from the General Fund. The bill would require each licensee to pay a one-time license fee in the amount of \$30,000,000 for deposit in the General Fund. The license fee would be credited against monthly fees imposed on the licensee's gross gaming revenue proceeds, as specified.

Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.

This bill would require the department, notwithstanding that requirement, in consultation with the commission, the Treasurer, and the Franchise Tax Board, to issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this bill within one year of the operative date of this bill and, annually, thereafter.

The bill would also require the Bureau of State Audits, at least 4 years after the issue date of any license by the state, but no later than 5 years after that date, to issue a report to the Legislature detailing the implementation of this bill, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 5.2 (commencing with Section 19990.01)
- 2 is added to Division 8 of the Business and Professions Code, to
- 3 read:

1 CHAPTER 5.2. THE INTERNET GAMBLING CONSUMER
2 PROTECTION AND PUBLIC-PRIVATE PARTNERSHIP ACT OF 2013
3

4 Article 1. Title, Legislative Declarations, and Statement of
5 Legislative Intent
6

7 19990.01. This chapter shall be known and may be cited as the
8 Internet Gambling Consumer Protection and Public-Private
9 Partnership Act of 2013.

10 19990.02. The Legislature hereby finds and declares all of the
11 following:

12 (a) Californians participate in illegal online gambling on
13 unregulated Internet gambling Web sites. These Internet gambling
14 Web sites are operated by offshore operators that are not regulated
15 by United States authorities. As such, neither federal nor California
16 laws provide any consumer protections for California players.
17 California players assume all risks, any negative social or financial
18 impacts are borne by the citizens of California, and the revenues
19 generated from online gambling are being realized by offshore
20 operators and do not provide any benefits to the citizens of
21 California.

22 (b) The presence, operation, and expansion of offshore,
23 unlicensed, and unregulated Internet gambling Web sites available
24 to Californians endanger Californians because the current Internet
25 gambling Web sites operate illegally and without regulation as
26 demonstrated by criminal prosecutions of some Internet gambling
27 purveyors, and questions often arise about the honesty and the
28 fairness of the games played on these Internet gambling Web sites
29 as well as about the use of proceeds generated by these unregulated
30 Internet gambling Web sites.

31 (c) In October 2006, Congress passed the SAFE Port Act (Public
32 Law 109-347), to increase the security of United States ports.
33 Embedded within the language of that act was a section entitled
34 the Unlawful Internet Gambling Enforcement Act of 2006
35 (UIGEA), which prohibits the use of banking instruments,
36 including credit cards, checks, or fund transfers, for interstate
37 Internet gambling, essentially prohibiting online gambling by
38 United States citizens. UIGEA includes exceptions that permit
39 individual states to create a regulatory framework to enable
40 intrastate Internet gambling, provided the bets or wagers are made

1 exclusively within a single state, whose state laws or regulations
2 comply with all of the following:

3 (1) Contain certain safeguards regarding those transactions,
4 including both of the following:

5 (A) Age and location verification requirements.

6 (B) Data security standards designed to prevent access by minors
7 and persons located outside of that state.

8 (2) Expressly authorize the bet or wager and the method by
9 which the bet or wager is made.

10 (3) Do not violate any federal gaming statutes, including all of
11 the following:

12 (A) The Interstate Horseracing Act of 1978.

13 (B) The Professional and Amateur Sports Protection Act.

14 (C) The Gambling Devices Transportation Act.

15 (D) The Indian Gaming Regulatory Act of 1988 (IGRA).

16 (d) State provision of Internet gambling consistent with federal
17 law provides California with the means to protect its citizens and
18 consumers under certain conditions by providing a framework to
19 ensure that, among other things, minors are prevented from
20 gambling, citizens participating in gambling activities are protected,
21 and the state is not deprived of income tax revenues to which it
22 would otherwise be entitled.

23 (e) The state currently maintains and implements substantial
24 regulatory and law enforcement efforts to protect thousands of
25 Californians who gamble and play, among other things, real-money
26 poker in licensed California cardrooms and tribal government
27 casinos, yet the state provides no licensing requirements, regulatory
28 structure, or law enforcement tools to protect millions of
29 Californians who play the same games daily for money on the
30 Internet.

31 (f) California has a legitimate state interest in protecting the
32 integrity of state-authorized intrastate Internet gaming by licensing
33 only entities already engaged in legal gambling operations subject
34 to the scrutiny and discipline of California regulatory agencies and
35 that are in good standing with those state agencies.

36 (g) In order to protect Californians who gamble online, allow
37 state law enforcement to ensure consumer protection, and keep
38 the revenues generated from Internet gambling in California, it is
39 in the best interest of the state and its citizens to authorize,

1 implement, and create a legal system for intrastate Internet
2 gambling.

3 (h) It is also the interest of the state to provide hundreds of
4 millions of dollars annually for the public services that have been
5 cut repeatedly during the state's budget crisis. It is the intent of
6 the Legislature in enacting this act to ensure that the state realizes
7 a minimum of two hundred million dollars (\$200,000,000) of
8 General Fund revenue from licensing fees during the 2013–14
9 fiscal year.

10 (i) The state's interests are best met by a public-private
11 partnership between the state and private entities, the terms of
12 which would facilitate meeting the important consumer protection
13 interests of the state while ensuring, through the success of the
14 private entities, that the state receives the benefits of the licensing
15 scheme as well as tax revenues that it would otherwise not receive.

16 (j) The state's interests are best met by encouraging competition
17 among qualified entities with the technical expertise and systems
18 that comply with federal law, protect registered players, and ensure
19 that the state collects consideration under the licensing scheme
20 with those qualified entities, personal income taxes owed by
21 registered players, corporate taxes from the earnings of licensed
22 entities, and property, employment, and sales and use taxes created
23 from new businesses, jobs, and other economic inducements from
24 the authorization, regulation, and control of Internet gambling.

25 (k) The California Gambling Control Commission and the
26 Department of Justice, in conjunction with other state agencies
27 and private partners, has the expertise to evaluate the qualifications
28 of applicants for a license to conduct intrastate Internet gambling
29 services, and to license the best qualified and most responsive
30 applicants to meet the needs of the state and its citizens.

31 (l) The authorization of intrastate Internet gambling pursuant
32 to this chapter does not violate the California Constitution or
33 interfere with any right under any compact between the state and
34 any federally recognized Indian tribe. Moreover, the authorization
35 and regulation of intrastate Internet gambling pursuant to this
36 chapter do not violate the exclusivity provisions of any compact
37 between the state and any federally recognized Indian tribe. Internet
38 gambling will take place throughout California. Moreover, the
39 facilities used in the provision of Internet gambling are not slot
40 machines or gaming devices as defined in any of those compacts,

1 and it was not the intent of any party to a tribal-state gaming
2 compact to prohibit the use of a gaming system, or an Internet
3 access device not located in a place of public accommodation, to
4 play nonbanked games that are not subject to the compacts,
5 including the Internet poker authorized by this act. While the
6 federal Indian Gaming Regulatory Act of 1988 balanced the
7 interests of three sovereigns, the state, the tribes, and the federal
8 government, UIGEA was designed to balance the federal interest
9 in secure financial transactions with the state's power to determine
10 how online gambling should take place within that state. Finally,
11 application of UIGEA in California does not violate federal Indian
12 law by impinging upon protected tribal sovereignty.

13 (m) Nothing in this chapter prohibits any federally recognized
14 Indian tribe within California with a tribal-state gaming compact
15 with the state pursuant to IGRA from participating in intrastate
16 Internet gambling pursuant to these provisions subject to the
17 jurisdiction of the state.

18 19990.03. It is the intent of the Legislature to create a licensing
19 and regulatory framework to:

20 (a) Ensure that authorized games are offered only for play in a
21 manner that is consistent with federal and state law.

22 (b) Authorize the California Gambling Control Commission to
23 issue licenses, with the recommendation of the Department of
24 Justice, to applicants that meet the background requirements and
25 demonstrate the technical expertise to ensure that game play
26 authorized by this chapter is offered only to registered players who
27 are physically present within the borders of California at the time
28 of play and who are 21 years of age or older.

29 (c) Authorize the commission, after any licensee has been
30 providing authorized games for five years, to renegotiate the fees
31 paid by the licensees, as provided in this chapter, based in large
32 part on the report and recommendations of the Bureau of State
33 Audits to the Legislature pursuant to Section 19990.96, and subject
34 to the statutory approval of the Legislature. Each existing licensee
35 shall have the opportunity to agree to any changes in fees and
36 continue in partnership with the state, or to relinquish its license.

37 (d) Include all of the provisions in this chapter as terms of the
38 license between the state and each licensee, subject to the
39 enforcement provisions delineated in this chapter.

1 (e) Ensure that each licensee complies with federal and state
2 laws and regulations.

3 (f) Grant power to the state agencies authorized in this chapter
4 to oversee the operations of each licensee and to enforce the
5 provisions of this chapter to ensure that the interests of the state
6 and registered players are protected.

7 (g) Establish a process that includes a background investigation
8 and requires that each employee of each licensee or subcontractor
9 receives all necessary licenses and work permits from the state.

10 (h) Ensure that the state is able to collect income tax revenues
11 from registered players.

12 (i) Distribute regulatory fees collected by the state from each
13 licensee to the Internet Gambling Fund, as established in Section
14 19990.86, which shall be administered by the Controller, subject
15 to annual appropriation by the Legislature, and which shall not be
16 subject to the formulas established by law directing expenditures
17 from the General Fund, for the following:

18 (1) The actual costs of license oversight, consumer protection,
19 state regulation, and problem gambling programs.

20 (2) Other purposes related to this chapter as the Legislature may
21 decide.

22 (j) Create systems to protect each registered player's private
23 information and prevent fraud and identity theft.

24 (k) Ensure that registered players are able to have their financial
25 transactions processed in a secure and transparent fashion.

26 (l) Ensure that all applicable state agencies will have unrestricted
27 access to the premises and records of each licensee to ensure strict
28 compliance with state law concerning credit authorization, account
29 access, and other security provisions.

30 (m) Require that each licensee provide registered players with
31 accessible customer service.

32 (n) Require that each licensee's Internet Web sites contain
33 information relating to problem gambling, including a telephone
34 number that an individual may call to seek information and
35 assistance for a potential gambling addiction.

36 (o) Require that each licensee and all of its subcontractors be
37 organized in California. The licensee, its facilities, its bank
38 accounts and accounting records related to its intrastate online
39 gambling operations, and its registered players' deposits shall be
40 located entirely within the state.

(p) Ensure that there are no artificial business constraints on the licensee, such as limits on the percentage of revenues that may be paid to technology supply contractors or limits on the number of intrastate Internet gambling Web sites a licensee may operate. Licensees and suppliers are free to structure their own desired relationships without interference from the state.

(q) Ensure that all employees of the licensee are physically present in the state when working on the licensee's Internet gambling Web site or in its facilities connected to the play of Internet gambling in this state, or when in contact with registered players. However, the licensee shall have discretion to use the expertise of personnel not physically present in the state when necessary to protect registered players and state interests, including, but not limited to, for the purposes of diagnosing and addressing technological problems, investigating fraud and collusion, and supervising software and configuration changes.

(r) Create an express exemption from disclosure, pursuant to the California Public Records Act under subdivision (b) of Section 6253 of the Government Code, that exempts from public disclosure proprietary information of a license applicant or a licensee in order to permit disclosure of confidential information to state agencies while achieving the public policy goals of deploying secure systems that protect the interests of the state and players.

(s) Preserve the authority of the state to opt out of, or opt into, any federal framework for Internet gambling, or to enter into any agreement with other states to provide Internet gambling.

(t) As a matter of statewide concern, preempt any city, county, or city and county from enacting any law or ordinance regulating or taxing any matter covered in this chapter.

Article 2. Definitions

19990.05. For the purposes of this chapter the following words have the following meanings:

(a) "Authorized game" means a game approved by the department pursuant to Section 19990.14 and played using an intrastate Internet Web site pursuant to the authority of the state or offered by a licensee as authorized by the state on an intrastate Internet Web site operated by a licensee pursuant to this chapter.

1 (b) “Background investigation” means a process of reviewing
2 and compiling personal and criminal history and financial
3 information through inquiries of various law enforcement and
4 public sources to establish a person’s qualifications and suitability
5 for a license.

6 (c) “Bet” means the placement of a wager in a game.

7 (d) “Commission” means the California Gambling Control
8 Commission.

9 (e) “Core functions” and “core functioning” mean any of the
10 following:

11 (1) The management, administration, or control of wagers on
12 authorized games provided over the Internet.

13 (2) The management, administration, or control of the games
14 with which those wagers are associated.

15 (3) The development, maintenance, provision, or operation of
16 a gaming system.

17 (f) “Department” means the Department of Justice.

18 (g) “Employee” means any natural person employed in, or
19 serving as a consultant or independent contractor with respect to,
20 the core functioning of the actual operation of an intrastate Internet
21 gambling Web site.

22 (h) “Employee work permit” means a permit issued to an
23 employee of the licensee or a subcontractor by the commission
24 after a background investigation.

25 (i) “Finding of suitability” means a finding by the commission
26 that a person meets the qualification criteria described in Article
27 4 (commencing with Section 19990.20), and that the person would
28 not be disqualified from being a licensee on any of the grounds
29 specified in Article 4 (commencing with Section 19990.20).

30 (j) “Gambling” means to deal, operate, carry on, conduct,
31 maintain, or expose for play any game for money.

32 (k) “Game” means any gambling game.

33 (l) “Gaming system” means the technology, including hardware
34 and software, used by a licensee to facilitate the offering of
35 authorized games to registered players.

36 (m) “Good standing” means that a person has not had a gambling
37 or racing license suspended or revoked by a final decision of the
38 board or commission that issues that license or been finally ordered
39 by a court of competent jurisdiction to cease conducting gaming
40 activities. A suspension, revocation, or order shall be deemed final

1 for purposes of this definition when it is no longer subject to
2 challenge or appeal through administrative or court processes.

3 (n) “Gross revenues” means the total amount of money paid to
4 a licensee pursuant to activities authorized under this chapter.
5 Gross revenues shall not include player deposits and wagers.

6 (o) “Internet Gambling Fund” means the fund established
7 pursuant to Section 19990.86 for annual appropriation by the
8 Legislature.

9 (p) “Intrastate” means within the borders of California.

10 (q) “Key employee” means any natural person employed by a
11 licensee, subcontractor, or player recruiter, or by a holding or
12 intermediary company of a licensee, subcontractor, or player
13 recruiter, who is an officer or director of the licensee or certificate
14 holder, or who, in the judgment of the commission, has the
15 authority to exercise significant influence over decisions
16 concerning the operation of the licensee or certificate holder as
17 that operation relates to the Internet gambling authorized by this
18 chapter.

19 (r) “Land-based gaming entity” means a card club operated
20 pursuant to Chapter 5 (commencing with Section 19800) or a
21 casino operated by a federally recognized Indian tribe on Indian
22 land in California that provides any game for players on its
23 premises that is offered on an intrastate Internet gambling Web
24 site.

25 (s) “Licensee” means an entity licensed pursuant to this chapter
26 to offer the play of authorized games to registered players on an
27 intrastate Internet Web site.

28 (t) “Online self-exclusion form” means a form on which an
29 individual notifies a licensee that he or she must be excluded from
30 participation in authorized games for a stated period of time.

31 (u) “Owner” means any person that has a financial interest in
32 or control of a licensee, subcontractor, or other entity required to
33 be found suitable under this chapter.

34 (v) “Per hand charge” means the amount charged by the licensee
35 for registered players to play in a per hand game.

36 (w) “Per hand game” means an authorized game for which the
37 licensee charges the player for each hand played.

38 (x) “Person” means an individual, corporation, business trust,
39 estate, trust, partnership, limited liability company, association,
40 joint venture, government, governmental subdivision, agency, or

1 instrumentality, public corporation, or any other legal or
2 commercial entity.

3 (y) “Play settings” means the options and default parameters
4 made available by a licensee to a registered player in the play of
5 authorized games.

6 (z) (1) “Poker” means any of several card games that meet all
7 of the following criteria:

8 (A) Not banked by either the house or by a player.

9 (B) Commonly referred to as “poker.”

10 (C) Played by two or more individuals who wager against each
11 other on the cards dealt to them out of a common deck of cards,
12 including games using electronic devices that simulate a deck of
13 cards.

14 (D) Players compete against each other and not against the
15 person or entity operating the game.

16 (E) Success over time is influenced by the skill of the player.

17 (F) Wagers of one player are often designed to affect the
18 decisions of another player in the game.

19 (G) The operator of the game may assess a fee.

20 (2) “Poker” includes poker tournaments in which players pay
21 a fee to the operator of the tournament under the authority of the
22 state pursuant to this chapter.

23 (aa) “Proprietary information” means and includes all
24 information that, whether or not patentable or registerable under
25 patent, copyright, trademark, or similar statutes, (1) can be
26 protected as a trade secret under California law or any other
27 applicable state law, federal law, or foreign law, or (2) derives
28 independent economic value, actual or potential, from not being
29 generally known to the public or to other persons that can obtain
30 economic value from its disclosure or use. “Proprietary
31 information” includes, but is not limited to, computer programs,
32 databases, data, algorithms, formulae, expertise, improvements,
33 discoveries, concepts, inventions, developments, methods, designs,
34 analyses, drawings, techniques, strategies, new products, reports,
35 unpublished financial statements, budgets, projections, billing
36 practices, pricing data, contacts, client and supplier lists, business
37 and marketing records, working papers, files, systems, plans and
38 data, and all registrations and applications related thereto.

39 (ab) “Registered player” means a player who has registered with
40 a licensee to play authorized games.

1 (ac) “Registration information” means the information provided
2 by a person to a licensee in order to become a registered player.

3 (ad) “Robotic play” means the use of a machine or software by
4 a registered player or licensee to automate the next player action
5 at any point in a game.

6 (ae) “State” means the State of California.

7 (af) (1) “Subcontractor” means any person that does any of the
8 following:

9 (A) On behalf of a licensee, knowingly manages, administers,
10 or controls wagers on authorized games provided over the Internet
11 by a licensee pursuant to this chapter.

12 (B) On behalf of a licensee, knowingly manages, administers,
13 or controls the games with which those wagers are associated.

14 (C) On behalf of a licensee, develops, maintains, provides, or
15 operates a gaming system.

16 (D) Sells, licenses, or otherwise receives compensation for
17 selling or licensing information on individuals in California who
18 made wagers on games over the Internet that were not licensed
19 under this chapter via a database or customer lists.

20 (E) Provides any product, service, or asset to a licensee and is
21 paid a percentage of gaming revenue by the licensee, not including
22 fees to financial institutions and payment providers for facilitating
23 a deposit by a customer.

24 (F) Provides intellectual property, including the trademarks,
25 tradenames, service marks, or similar intellectual property under
26 which a licensee identifies its games to its customers.

27 (2) “Subcontractor” shall not include a provider of goods or
28 services that provides similar goods or services to the public for
29 purposes other than the operation of Internet gambling activities,
30 and is not otherwise directly or indirectly involved in the operation
31 of an intrastate Internet gambling Web site pursuant to a license
32 issued under this chapter.

33 (ag) “Terms of Use Registered Player’s Agreement” means the
34 agreement offered by a licensee and accepted by a registered player
35 delineating, among other things, permissible and impermissible
36 activities on an intrastate Internet gambling Web site and the
37 consequences of engaging in impermissible activities.

38 (ah) “Tournament” means a department-approved competition
39 in which registered players play a series of authorized games to
40 decide the winner.

1 (ai) “Tournament charge” means the amount charged by the
2 licensee for registered players to play in a tournament.

3 (aj) “Tournament winnings” means the amount of any prize
4 awarded to a registered player in a tournament.

5 (ak) “Tribe” means a federally recognized California Indian
6 tribe, including, but not limited to, the governing body of that tribe
7 or any entity that is an affiliate of that tribe.

8
9 Article 3. Legal Authorized Games Offered Over the Internet
10 in California
11

12 19990.10. Under the federal Unlawful Internet Gambling
13 Enforcement Act of 2006, California is permitted to authorize
14 games as long as all players and the online wagering activities are
15 located within the state and the games are not played by minors.

16 19990.11. Notwithstanding any other law, a person in
17 California 21 years of age or older is hereby permitted to participate
18 as a registered player in an authorized game provided over the
19 Internet by a licensee as described in this chapter.

20 19990.12. (a) A person shall not offer any game on the Internet
21 in this state unless that person holds a valid license issued by the
22 state to offer the play of authorized games on an intrastate Internet
23 gambling Web site pursuant to this chapter.

24 (b) It is unlawful for any person to offer or play any gambling
25 game provided on the Internet that is not authorized by the state
26 pursuant to this chapter.

27 (c) It is unlawful for any person to aggregate computers or other
28 access devices in a public setting for the purpose of playing
29 gambling games on the Internet, whether or not otherwise
30 authorized pursuant to this chapter, or to promote or market that
31 activity.

32 (d) Any violation of this chapter is punishable as a misdemeanor.

33 19990.13. Chapter 5 (commencing with Section 19800) does
34 not apply to this chapter.

35 19990.14. (a) Only poker shall be offered for play on an
36 intrastate Internet gambling Web site pursuant to this chapter.

37 (b) Only the types of poker games approved by the department
38 for play on an intrastate Internet gambling Web site shall be offered
39 for play on an intrastate Internet gambling Web site pursuant to
40 this chapter.

Article 4. Licensing of Intrastate Internet Gambling Web Site
Operators

19990.20. (a) A license to operate an intrastate Internet gambling Web site pursuant to this chapter shall be issued for a term of five years. Subject to the power of the commission to deny, revoke, suspend, condition, or limit any license, as provided in this chapter, a license is eligible for renewal at the end of each term. Failure of a licensee to file an application for renewal may be deemed a surrender of the license. The commission shall draft necessary regulations for the licensing renewal process.

(b) All initial licenses issued pursuant to this chapter shall take effect on the same date, as determined by the department, but not later than January 1, 2015.

19990.21. (a) Each entity described in subdivision (b) is eligible for a single intrastate Internet gambling license. There is no limit on the total number of licenses the state may issue. Any of the eligible entities may jointly apply for a license, either as a consortium or by forming an entity comprised entirely of eligible entities. Each eligible entity may have an interest in only a single license.

(b) An entity eligible to apply for, receive, and maintain an intrastate Internet gambling license pursuant to this chapter includes all of the following:

(1) A gambling enterprise, as defined in subdivision (m) of Section 19805, that holds an owner license issued pursuant to subdivision (a) of Section 19851, and that has been subject to oversight by, and in good standing with, the commission for the three years immediately preceding its application for licensure.

(2) A federally recognized California Indian tribe operating a casino pursuant to a tribal-state gaming compact under the federal Indian Gaming Regulatory Act of 1988, or pursuant to procedures prescribed under Section 2710(d)(7)(A)(vii) of Title 25 of the United States Code, that has been subject to oversight by, and in good standing with, the commission and the department for the three years immediately preceding its application for licensure.

(3) A thoroughbred, quarter horse, or harness association licensed by the California Horse Racing Board that has been subject to oversight by, and in good standing with, the board for the three years immediately preceding its application for licensure.

1 (4) An operator of an online advanced deposit wagering site
2 regulated by the California Horse Racing Board that has been
3 subject to oversight by, and in good standing with, the board for
4 the three years immediately preceding its application for licensure.

5 (5) A wholly owned subsidiary of any of the entities described
6 in paragraphs (1) to (4), inclusive, created for the purpose of
7 engaging in the activities permitted by this chapter.

8 (c) For the purposes of this section, incorporation or other
9 change in legal form of ownership during the three years
10 immediately preceding application for licensure shall not disqualify
11 an entity otherwise eligible for licensure pursuant to subdivision
12 (b). Additionally, for the purposes of this section, a group of
13 eligible entities jointly applying for a license, either as a consortium
14 or by forming an entity comprised entirely of eligible entities, need
15 not have been in existence for three years to be eligible for a license
16 pursuant to this section, provided that its members meet all other
17 eligibility requirements of this section.

18 19990.22. (a) Factors to be considered in evaluating a license
19 applicant shall include, but are not limited to, quality, competence,
20 experience, past performance, efficiency, reliability, financial
21 viability, durability, adaptability, timely performance, integrity,
22 security, and the applicant's subcontractors for core functions.

23 (b) (1) A license applicant, and all subcontractors of the
24 applicant, shall be a resident of California, or an entity organized
25 in California, and subject to state taxation, auditing, and
26 enforcement. All facilities, bank accounts, and accounting records
27 of the license applicant related to intrastate Internet gambling shall
28 be located in California.

29 (2) At all times, a license applicant or licensee shall be domiciled
30 in California and in good standing with the Secretary of State and
31 the Franchise Tax Board.

32 (3) All subcontractors of a license applicant or licensee, or
33 persons otherwise providing goods or performing services in
34 connection with the operation of authorized games for the license
35 applicant or licensee, or any of its subcontractors, and any persons
36 that have the authority to exercise significant influence over a
37 subcontractor shall be subject to this subdivision. If a licensee
38 desires to enter into an agreement with a person to provide goods
39 or services in connection with the operation of authorized games,
40 that person shall be subject to this subdivision and investigation

1 and a finding of suitability as set forth in Section 19990.23. The
2 commission may establish a registration process and application
3 for subcontractors not performing core functions.

4 (c) In addition to any other confidentiality protections afforded
5 to license applicants, the state and its agencies shall treat the
6 proprietary information of any license applicant as confidential to
7 protect the license applicant and to protect the security of any
8 prospective intrastate Internet gambling Web site. This chapter
9 does not prohibit the exchange of confidential information among
10 state agencies considering a license application. The confidentiality
11 provisions in this chapter exempt proprietary information supplied
12 by a license applicant to a state agency from public disclosure
13 consistent with subdivision (b) of Section 6253 of the Government
14 Code.

15 (d) A license applicant that has been deemed eligible shall
16 submit to the commission, together with its application, an
17 application deposit of no less than one million dollars (\$1,000,000),
18 and no greater than five million dollars (\$5,000,000), as determined
19 by the department, in consultation with the commission, for the
20 reasonably anticipated costs to complete necessary background
21 investigation and evaluate the suitability of the applicant. All
22 moneys collected pursuant to this subdivision shall be deposited
23 into the Internet Gambling Licensing Fund, as hereby created, to
24 be administered by the department. Notwithstanding Section 13340
25 of the Government Code, all moneys in the fund are continuously
26 appropriated to the department and the commission, without regard
27 to fiscal years, in the amounts necessary for the department and
28 the commission to perform their duties under this section and
29 Section 19990.23. Any funds associated with the license applicant
30 that remain after completion of background investigation and the
31 finding of suitability shall be refunded to the applicant. If additional
32 moneys are needed to complete the investigation of the license
33 applicant, the applicant shall pay the funds necessary to complete
34 the investigation.

35 (e) An applicant for an intrastate Internet gambling license
36 pursuant to this chapter that is a federally recognized Indian tribe
37 or an entity that is either wholly owned by a tribe or that consists
38 of one or more tribes shall include with its license application an
39 express waiver of the applicant's sovereign immunity solely for
40 the purposes of investigating the suitability of the applicant, and

1 enforcing this chapter and any regulations promulgated thereunder,
2 and with regard to any claim, sanction, or penalty arising therefrom,
3 against the applicant as a prospective or actual licensee, and for
4 no other purpose.

5 19990.23. (a) The department shall review the suitability of
6 a license applicant to operate an intrastate Internet gambling Web
7 site.

8 (b) The department may establish a process to conduct a
9 preliminary determination of suitability based on a partial
10 investigation of license applicants seeking licensure along with a
11 determination of which license applicants may be subject to a
12 partial investigation. A partial investigation is intended to screen
13 out applicants that do not meet the suitability requirements of this
14 chapter. A partial investigation shall include fingerprint-based
15 state and federal criminal history checks and clearances, and
16 inquiries into various public databases regarding credit history and
17 any civil litigation. A partial investigation shall also include a
18 review of the applicant's financial status, which shall include the
19 required submission of a report prepared on behalf of the applicant
20 by a department-approved forensic accounting, audit, or
21 investigative firm, in a format developed by the department, and
22 at the applicant's expense. The report shall include the financial
23 information necessary for the department to make a preliminary
24 determination of suitability. The department may specify additional
25 requirements regarding the contents of the report and any other
26 financial information or documentation required to be submitted
27 with the application. A full investigation shall be conducted of
28 only those persons that pass the partial investigation and that will
29 undergo a full investigation pursuant to subdivision (c). Those
30 applicants that do not pass the partial investigation may appeal the
31 decision to the commission.

32 (c) The department shall conduct a full investigation into the
33 suitability of any license applicant to operate an intrastate Internet
34 gambling Web site. The investigation shall include all of the
35 following persons:

36 (1) The license applicant and all of its subcontractors that
37 provide services related to core functions.

38 (2) All officers of the license applicant.

39 (3) The owner or owners of the following:

40 (A) The license applicant.

1 (B) Any affiliate of the license applicant.

2 (C) Any subcontractors of a license applicant, or other persons
3 otherwise providing goods to, or performing services for, the
4 license applicant related to core functions.

5 (D) Any person deemed by the department to have significant
6 influence over the license applicant or its subcontractors or their
7 respective operations.

8 (d) A full investigation shall include a review and evaluation
9 of the license applicant's qualifications and experience to provide
10 the services anticipated of a licensee, which shall include the
11 required submission of a report prepared on each applicant by an
12 outside firm contracted and supervised by the department, in a
13 format developed by the department, and at the applicant's expense.
14 The report shall include information necessary for the department
15 to make a determination of suitability, as specified in regulation,
16 consisting of, but not limited to, personal history, prior activities
17 and associations, credit history, civil litigation, past and present
18 financial affairs and standing, and business activities. The
19 department may specify additional requirements regarding the
20 contents of the report and other information or documentation
21 required to be submitted with the application. The license applicant
22 shall also provide compliance certification of its gaming software
23 by a department-approved gaming laboratory.

24 (e) (1) Both of the following persons are subject to the
25 investigation required under subdivision (c):

26 (A) A person that directly or indirectly holds a beneficial interest
27 or ownership interest of 10 percent or more of a subcontractor or
28 player recruiter of the licensee. The commission may require any
29 person with a smaller interest to be found suitable in the exercise
30 of its discretion where it deems appropriate. If the person is not a
31 natural person, the department may determine which officers,
32 directors, and owners of the person are significantly involved in
33 the management or control of the person as it relates to core
34 functions so as to require an investigation into suitability.

35 (B) If the owner is a publicly traded or qualified racing
36 association, then each officer, director, and owner, other than an
37 institutional investor, of 5 percent or more of the outstanding shares
38 of the publicly traded corporation.

39 (2) An institutional investor holding more than 10 percent and
40 less than 25 percent of the equity securities of a subcontractor's

1 holding or intermediary companies shall be granted a waiver of
2 any investigation of suitability or other requirement if all of the
3 following apply:

4 (A) The securities are those of a corporation, whether publicly
5 traded or privately held.

6 (B) Holdings of those securities were purchased for investment
7 purposes only.

8 (C) The institutional investor annually files a certified statement
9 with the department to the effect that it has no intention of
10 influencing or affecting the affairs of the issuer, the licensee, or
11 subcontractor, as applicable, or its holding or intermediary
12 companies.

13 (3) Notwithstanding paragraph (2), the institutional investor
14 may vote on matters put to the vote of the outstanding security
15 holders.

16 (4) The certification described in subparagraph (C) of paragraph
17 (2) shall include a statement that the institutional investor
18 beneficially owns the equity securities of the corporation for
19 investment purposes only, and in the ordinary course of business
20 as an institutional investor, and not for the purpose of (A) causing,
21 directly or indirectly, the election of members of the board of
22 directors, or (B) effecting any change in the corporate charter,
23 bylaws, management, policies, or operations of the corporation or
24 any of its affiliates. The certification also shall indicate any changes
25 to the structure or operations of the institutional investor that could
26 affect its classification as an institutional investor, as listed in
27 paragraph (7). Additionally, the certification shall state that the
28 institutional investor and corporation shall maintain gaming
29 compliance policies and procedures to implement and ensure
30 compliance with this chapter and regulations promulgated
31 thereunder.

32 (5) An institutional investor granted a waiver under paragraph
33 (2) that subsequently decides to influence or affect the affairs of
34 the issuer shall provide not less than 30 days' notice of that intent
35 and shall file with the department a request for determination of
36 suitability before taking any action that may influence or affect
37 the affairs of the issuer. However, the institutional investor may
38 vote on matters put to the vote of the outstanding security holders.
39 If an institutional investor changes its investment intent, or the
40 department finds reasonable cause to believe that the institutional

1 investor may be found unsuitable, the institutional investor shall
2 take no action other than divestiture with respect to its security
3 holdings until it has complied with any requirements established
4 by the department, which may include the execution of a trust
5 agreement. The subcontractor and its relevant holding,
6 intermediary, or subsidiary company shall immediately notify the
7 department of any information about, or actions of, an institutional
8 investor holding its equity securities when that information or
9 action may impact upon the eligibility of the institutional investor
10 for a waiver pursuant to paragraph (2).

11 (6) If at any time the department finds that an institutional
12 investor holding any security of a holding or intermediary company
13 of a subcontractor, or, where relevant, of another affiliate or
14 subsidiary company of a holding or intermediary company of a
15 subcontractor that is related in any way to the financing of the
16 subcontractor, fails to comply with the terms of paragraphs (2) to
17 (5), inclusive, or if at any time the department finds that, by reason
18 of the extent or nature of its holdings, whether of debt or equity
19 securities, an institutional investor is in a position to exercise such
20 a substantial impact upon the controlling interests of a
21 subcontractor that investigation and determination of suitability
22 of the institutional investor are necessary to protect the public
23 interest, the department may take any necessary action otherwise
24 authorized under this chapter to protect the public interest.

25 (7) For purposes of this subdivision, an “institutional investor”
26 includes all of the following:

27 (A) Any retirement fund administered by a public agency for
28 the exclusive benefit of federal, state, or local public employees.

29 (B) An investment company registered under the federal
30 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

31 (C) A collective investment trust organized by banks under Part
32 Nine of the Rules of the Comptroller of the Currency.

33 (D) A closed-end investment trust.

34 (E) A chartered or licensed life insurance company or property
35 and casualty insurance company.

36 (F) A federally regulated or state-regulated bank, savings and
37 loan, or other federally or state-regulated lending institution.

38 (G) An investment adviser registered under the federal
39 Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.).

1 (H) Other persons as the department may determine for reasons
2 consistent with the public interest.

3 (f) Except as otherwise provided by statute or regulation, every
4 person, that, by statute or regulation, is required to hold a license
5 shall obtain a license prior to engaging in the activity, or occupying
6 the position, with respect to which the license is required. An
7 applicant for licensing, or for any approval or consent, shall make
8 a full and true disclosure of all information to the department and
9 the commission as necessary to carry out the policies of the state
10 relating to the licensing and control of gambling. The burden of
11 proving a person's qualifications to receive a license is on the
12 applicant.

13 (g) The commission shall issue a finding of suitability for a
14 license applicant to operate an intrastate Internet gambling Web
15 site only if, based on all of the information and documents
16 submitted, the commission is satisfied that each of the persons
17 subject to investigation pursuant to this section is both of the
18 following:

19 (1) A person of good character, honesty, and integrity, or, if an
20 entity, in good standing in its jurisdiction of organization and in
21 all other jurisdictions in which it is qualified, or should be qualified,
22 to do business.

23 (2) A person whose prior activities, criminal record, if any,
24 reputation, habits, and associations do not pose a threat to the
25 public interest of this state, or to the effective regulation and control
26 of controlled gambling, or create or enhance the dangers of
27 unsuitable, unfair, or illegal practices, methods, and activities in
28 the conduct of controlled gambling or in the carrying on of the
29 business and financial arrangements incidental thereto.

30 (h) The commission shall issue a finding that a license applicant
31 is not suitable to operate an intrastate Internet gambling Web site
32 if it finds that any person subject to investigation pursuant to this
33 section is described by any of the following:

34 (1) Failed to clearly establish eligibility and qualifications in
35 accordance with this chapter.

36 (2) Failed to timely provide information, documentation, and
37 assurances required by this chapter or requested by the department,
38 or, with respect to a license applicant, failed to reveal any fact
39 material to qualification, or supplied information that is untrue or
40 misleading as to a material fact pertaining to the suitability criteria.

1 (3) Been convicted of a felony, including a conviction by a
2 federal court or a court in another state or foreign jurisdiction for
3 a crime that would constitute a felony if committed in California.

4 (4) Been convicted of any misdemeanor, in any jurisdiction,
5 involving dishonesty or moral turpitude within the 10-year period
6 immediately preceding the submission of the application, unless
7 the applicant has been granted relief pursuant to Section 1203.4,
8 1203.4a, or 1203.45 of the Penal Code. However, the granting of
9 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
10 Code shall not constitute a limitation on the discretion of the
11 department or affect the applicant's burden.

12 (5) Has associated with criminal profiteering activity or
13 organized crime, as defined in Section 186.2 of the Penal Code.

14 (6) Has contemptuously defied any legislative investigative
15 body, or other official investigative body of any state or of the
16 United States or any foreign jurisdiction, when that body is engaged
17 in the investigation of crimes relating to gambling, official
18 corruption related to gambling activities, or criminal profiteering
19 activity or organized crime, as defined in Section 186.2 of the
20 Penal Code.

21 (7) Is less than 21 years of age.

22 (8) Has knowingly and willfully accepted any wager from a
23 person in the United States on any form of Internet gaming that
24 has not been affirmatively authorized by law in this state or the
25 United States after December 31, 2006, or has been the holder of
26 a direct or indirect financial interest in a person or entity that has
27 accepted such a wager.

28 (i) (1) The commission shall reject the license application of
29 any applicant found to be ineligible for licensure.

30 (2) If denial of the application, or approval of the license with
31 restrictions or conditions on the license, is recommended, the
32 department shall prepare and file with the commission written
33 reasons upon which the recommendation is based. Prior to filing
34 its recommendation with the commission, the department shall
35 meet with the applicant, or the applicant's duly authorized
36 representative, and inform the applicant generally of the basis for
37 any proposed recommendation that the application be denied,
38 restricted, or conditioned.

39 (3) This section neither requires the department to divulge to
40 the applicant any confidential information received from any law

1 enforcement agency or any information received from any person
2 with assurances that the information would be maintained
3 confidential, nor to divulge any information that might reveal the
4 identity of any informant or jeopardize the safety of any person.

5 (4) Denial of an application shall be without prejudice to a new
6 and different application filed in accordance with any regulations
7 adopted by the department with respect to the submission of
8 applications.

9 (5) A request to withdraw an application for a license may be
10 made by the license applicant at any time prior to final action on
11 the application by the department by filing a written request with
12 the commission to withdraw the application.

13 19990.23.5. (a) A finding of suitability by a state gaming
14 agency within the United States with expertise recognized within
15 the gaming industry, and that is also recognized as meeting this
16 standard by the department, shall be grounds for a state provisional
17 finding of suitability with respect to a particular person or entity
18 until a permanent suitability finding is issued by the department
19 as to that person or entity.

20 (b) This section shall remain in effect only until January 1, 2017,
21 and as of that date is repealed, unless a later enacted statute, that
22 is enacted before January 1, 2017, deletes or extends that date.

23 19990.24. In addition to any other data that the department
24 shall request from license applicants as a matter of law and to
25 ensure that any license applicant is legally, technically, and
26 financially qualified to become a licensee, the department shall
27 request that any license applicant name, describe, or provide all
28 of the following:

29 (a) The license applicant's qualifications and the qualifications
30 of its executives and employees to receive an employee work
31 permit as set forth in Section 19990.31.

32 (b) The license applicant's experience and qualifications to
33 provide the services anticipated of a licensee as set forth in Article
34 5 (commencing with Section 19990.30).

35 (c) The names of all of the license applicant's owners,
36 executives, and employees, as well as sufficient personally
37 identifiable information on each of those persons to conduct
38 background investigations as required by the department.

1 (d) The fingerprints of the owners, directors, managers,
2 executives, and employees of the licensee, its affiliates, and
3 subcontractors taken using live scan technology.

4 (e) Documentation and information relating to the license
5 applicant and its direct and indirect owners, including, but not
6 limited to, all of the following:

7 (1) With respect to the license applicant and any of its
8 subcontractors, proof of formation in California, including, as
9 applicable, articles of incorporation, articles of organization,
10 bylaws, operating agreement, partnership agreement, or other
11 formation or charter documents.

12 (2) Current and historical audited financial and accounting
13 records performed in accordance with Generally Accepted
14 Accounting Principles (GAAP) or International Financial Reporting
15 Standards (IFRS).

16 (3) Any documents relating to legal and regulatory proceedings.

17 (4) Any documents relating to the license applicant's business
18 history and structure.

19 (5) Any documents relating to the nature and sources of the
20 license applicant's financing, including, but not limited to,
21 operating agreements, partnership agreements, stock purchase
22 agreements, loan capital agreements, pro forma cap tables, pro
23 forma statements of profits and loss, investor rights agreements,
24 voting agreements, and shareholder agreements. These materials
25 may be submitted subject to a request for confidentiality.

26 (6) Any documentation that demonstrates that the license
27 applicant is financially qualified to perform the obligations of a
28 licensee as described in this article.

29 (7) An independent financial audit report by a certified public
30 accountant.

31 (f) Documentation and information relating to all proposed
32 subcontractors of the license applicant, including, but not limited
33 to, all of the following:

34 (1) A description of the services to be provided by each
35 subcontractor.

36 (2) Information for each subcontractor as set forth in
37 subdivisions (b), (c), (d), and (e).

38 (3) For subcontractors that are not formed in California, a
39 commitment in writing by the subcontractor to create a California
40 subsidiary prior to the commencement of authorized games

1 provided by the licensee. The commitment required pursuant to
2 this paragraph shall be subject to the cure provisions of Section
3 19990.61.

4 (g) A description of the games and services the license applicant
5 proposes to offer to registered players.

6 (h) A description of the manner in which the licensee's facilities
7 will accomplish the goals of this chapter, including, but not limited
8 to:

9 (1) The licensee's location within the state.

10 (2) The licensee's security systems.

11 (i) The license applicant's proposal for the manner in which it
12 will facilitate compliance with all of the standards set forth in this
13 chapter and federal law, including, but not limited to, Section
14 5362(10)(B) of Title 31 of the United States Code, including, but
15 not limited to, all of the following:

16 (1) Age and location verification requirements reasonably
17 designed to block access by minors and persons located out of
18 state.

19 (2) Appropriate data security standards to prevent unauthorized
20 access by any persons whose age and current location have not
21 been verified in accordance with this chapter and applicable
22 regulations.

23 (3) The requirement that the licensee be located in California
24 and all bets be initiated and received or otherwise made exclusively
25 within California.

26 (j) The system requirements that the license applicant plans to
27 implement to achieve the state's goals under this chapter, including,
28 but not limited to:

29 (1) Connectivity.

30 (2) Hardware.

31 (3) Software.

32 (4) Antifraud systems.

33 (5) Virus prevention.

34 (6) Data protection.

35 (7) Access controls.

36 (8) Firewalls.

37 (9) Disaster recovery.

38 (10) Redundancy.

39 (11) Gaming systems, including, but not limited to, hardware
40 and software that ensure all of the following:

- 1 (A) The games are legal.
- 2 (B) The games are independent and fair and played by live
- 3 persons.
- 4 (C) Game and betting rules are available to all registered players.
- 5 (D) All data used for the conduct of each game is randomly
- 6 generated and unpredictable.
- 7 (12) Accounting systems, including but not limited to, those for
- 8 any of the following:
- 9 (A) Registered player accounts.
- 10 (B) Per hand charges.
- 11 (C) Transparency and reporting to all state agencies.
- 12 (D) Distribution of funds, pursuant to the license and this
- 13 chapter, to the state and registered players.
- 14 (E) Ongoing auditing and ongoing internal control and
- 15 compliance reviews.
- 16 (13) Facility security systems to protect the intrastate Internet
- 17 gambling Web site from internal and external threats.
- 18 (k) The license applicant's proposal to facilitate the statutory
- 19 duties and responsibilities of the state agencies with jurisdiction
- 20 over aspects of the licensee's operations, including, but not limited
- 21 to, all of the following:
- 22 (1) The department.
- 23 (2) The commission.
- 24 (3) The Treasurer.
- 25 (4) The Franchise Tax Board.
- 26 (l) An acknowledgment by the license applicant that the fees or
- 27 terms of the license issued by the state may be modified by the
- 28 state after five years, at which point the licensee may either agree
- 29 to be subject to that modification or relinquish the license.
- 30 (m) In addition to demonstrating that the license applicant is
- 31 legally, technically, and financially qualified to become a licensee,
- 32 a licensee shall also provide compliance certification of its gaming
- 33 software by a department-approved gaming laboratory to ensure
- 34 that it complies with the requirements of this chapter.
- 35 19990.25. (a) A holder of an owner license issued pursuant to
- 36 subdivision (a) of Section 19851, and that is in good standing,
- 37 shall not be deemed unqualified to operate a land-based gambling
- 38 entity by reason of an investment in a license applicant or a
- 39 licensee.

1 (b) An official representative of the government of a federally
2 recognized California Indian tribe with a tribal-state gaming
3 compact with the state shall not be deemed unqualified to operate
4 a land-based gambling entity by reason of an investment in a
5 license applicant or a licensee.

6 (c) (1) A license applicant whose application is denied may
7 bring an action to appeal that decision to the Superior Court of the
8 County of Sacramento. The decision of the Superior Court of the
9 County of Sacramento is not appealable. No remedy other than an
10 injunction is available pursuant to this subdivision.

11 (2) The Superior Court of the County of Sacramento shall uphold
12 the decision by the department if there is any substantial evidence
13 to support the department's decision to deny the license application.

14 (3) If the Superior Court of the County of Sacramento finds for
15 the license applicant, it shall return the application to the
16 department for action consistent with the decision of the court.

17
18 Article 5. Rights and Obligations of Licensees
19

20 19990.30. (a) A licensee shall comply with the terms of this
21 chapter.

22 (b) In the event of commercial infeasibility created by a change
23 in federal law rendering the provision of intrastate Internet
24 gambling services illegal, or some other event, a licensee may
25 abandon its operations after providing the department with 90
26 days' advance notice of its intent and a statement explaining its
27 interpretation that continuing to operate the intrastate Internet
28 gambling Web site is commercially infeasible. In response to that
29 notice, the state may file an action in the Superior Court of the
30 County of Sacramento as it deems necessary to protect any state
31 interests, including, but not limited to, the interests of registered
32 players.

33 (c) If any dispute arises between the state and the licensee, either
34 the department or a licensee may file an action in the superior court
35 of any county in which the department has an office for an
36 interpretation of the rights and responsibilities of the state and the
37 licensee pursuant to this chapter.

38 19990.31. (a) Prior to initiating operations and thereafter, a
39 licensee shall ensure that each employee has been issued an
40 employee work permit by the department, pursuant to standards

1 adopted by the department, prior to that person having access to
2 the licensee's facilities. The permit shall be renewed every two
3 years.

4 (b) An employee work permit shall not be issued unless, based
5 on all of the information and documents submitted, the department
6 is satisfied that the applicant is, at a minimum, all of the following:

7 (1) A person of good character, honesty, and integrity.

8 (2) A person whose prior activities, criminal record, if any,
9 reputation, habits, and associations do not pose a threat to the
10 public interest of this state, or to the effective regulation and control
11 of controlled gambling, or create or enhance the dangers of
12 unsuitable, unfair, or illegal practices, methods, and activities in
13 the conduct of controlled gambling or in the carrying on of
14 incidental business and financial arrangements.

15 (3) A person who is in all other respects qualified to hold an
16 employee work permit as provided in this chapter.

17 (c) An applicant for an employee work permit is disqualified
18 for any of the following reasons:

19 (1) Failure of the applicant to clearly establish eligibility and
20 qualification in accordance with this chapter.

21 (2) Failure of the applicant to provide timely information,
22 documentation, and assurances required by this chapter or requested
23 by any state official, or failure of the applicant to reveal any fact
24 material to the qualification, or the supplying of information that
25 is untrue or misleading as to a material fact pertaining to the
26 qualification criteria.

27 (3) Conviction of a felony, including a conviction by a federal
28 court, a court in another state, or a court in another country, for a
29 crime that would constitute a felony if committed in California.

30 (4) Conviction of the applicant for any misdemeanor involving
31 dishonesty or moral turpitude within the 10-year period
32 immediately preceding the submission of the application, unless
33 the applicant has been granted relief pursuant to Section 1203.4,
34 1203.4a, or 1203.45 of the Penal Code. However, the granting of
35 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
36 Code shall not constitute a limitation on the discretion of the
37 department or affect the applicant's burden under subdivision (b).

38 (5) Association of the applicant with criminal profiteering
39 activity or organized crime, as defined by Section 186.2 of the
40 Penal Code.

1 (6) Contemptuous defiance by the applicant of any legislative
2 investigative body, or other official investigative body of any state
3 or of the United States, when that body is engaged in the
4 investigation of crimes relating to gambling, official corruption
5 related to gambling activities, or criminal profiteering activity or
6 organized crime, as defined by Section 186.2 of the Penal Code.

7 (7) The applicant is less than 21 years of age.

8 (d) A licensee shall apply for an employee work permit on behalf
9 of each employee.

10 (e) An employee work permit shall not be issued unless the
11 applicant meets the qualification standards adopted by the
12 commission.

13 (f) The department shall establish a fee to be paid by a licensee
14 for the cost of background investigation on employee work permit
15 applications submitted on behalf of that licensee's employees. The
16 department and the commission shall establish processes for the
17 revocation or suspension of an intrastate Internet gambling license
18 or employee work permit, and to withdraw an application for an
19 intrastate Internet gambling license or employee work permit.

20 (g) (1) A licensee or subcontractor of a licensee shall not enter
21 into, without prior approval of the department, any contract or
22 agreement with a person who is denied a gambling license or
23 employee work permit pursuant to Chapter 5 (commencing with
24 Section 19800), or whose gambling license or employee work
25 permit is suspended or revoked by the department, or with any
26 business enterprise under the control of that person, after the date
27 of receipt of notice of the department's action.

28 (2) A licensee or subcontractor of a licensee shall not enter into
29 any contract or agreement with a person or entity that has
30 knowingly and willfully accepted any wager from persons in the
31 United States on any form of Internet gaming that has not been
32 affirmatively authorized by law in this state or the United States
33 after December 31, 2006, or has been the holder of a direct or
34 indirect financial interest in a person or entity that has accepted
35 such a wager.

36 (h) A licensee or subcontractor of a licensee shall not employ,
37 without prior approval of the department, any person in any
38 capacity for which he or she is required to have an employee work
39 permit, if the person has been denied a gambling license or an
40 employee work permit pursuant to Chapter 5 (commencing with

1 Section 19800), or if his or her gambling license or employee work
2 permit has been suspended or revoked after the date of receipt of
3 notice of the action by the department. A licensee or subcontractor
4 of a licensee shall not enter into a contract or agreement with a
5 person whose application for a gambling license or an employee
6 work permit has been withdrawn with prejudice, or with any
7 business enterprise under the control of that person, for the period
8 of time during which the person is prohibited from filing a new
9 application for a gambling license or an employee work permit.

10 (i) If an employee who is required to hold an employee work
11 permit pursuant to this chapter is denied an employee work permit,
12 or has his or her employee work permit revoked by the department,
13 the employee shall be terminated immediately in all capacities.
14 Upon notifying the licensee of the department's action, the
15 employee shall have no further involvement in the gambling
16 operation.

17 (1) If an employee who is required to hold an employee work
18 permit pursuant to this chapter has his or her employee work permit
19 suspended, the employee shall be suspended in all capacities. Upon
20 notifying the licensee of the department's action, the employee
21 shall not be permitted to have any involvement in the gambling
22 operation during the period of suspension.

23 (2) A licensee or subcontractor of a licensee shall not designate
24 another employee to replace the employee whose employment was
25 terminated or suspended, unless the other employee has an existing
26 work permit.

27 (j) A licensee or subcontractor of a licensee shall not pay to a
28 person whose employment has been terminated or suspended
29 pursuant to subdivision (i) any remuneration for any service
30 performed in any capacity in which the person is required to hold
31 an employee work permit, except for amounts due for services
32 rendered before the date of receipt of notice of the department's
33 action of suspension or termination.

34 (k) Except as provided in subdivision (i), a contract or agreement
35 for the provision of services or property to a licensee or
36 subcontractor or for the conduct of any activity pertaining to the
37 operation of an intrastate Internet gambling Web site, which is to
38 be performed by a person required by this chapter or by regulations
39 adopted pursuant to this chapter, to hold an employee work permit,

1 shall be terminated upon a suspension or revocation of the person's
2 employee work permit.

3 (l) In any case in which a contract or agreement for the provision
4 of services or property to a licensee or an affiliate thereof, or for
5 the conduct of any activity at an intrastate Internet gambling Web
6 site, is to be performed by a person required by this chapter or by
7 regulations adopted by the department to hold an employee work
8 permit, the contract shall be deemed to include a provision for its
9 termination without liability on the part of the licensee, affiliate,
10 or subcontractor upon a suspension or revocation of the person's
11 employee work permit. In any action brought by the department
12 to terminate a contract pursuant to subdivision (k) or this
13 subdivision, it shall not be a defense that the agreement does not
14 expressly include the provision described in this subdivision, and
15 the lack of express inclusion of the provision in the agreement
16 shall not be a basis for enforcement of the contract by a party
17 thereto.

18 (m) If a licensee does not comply with the requirements of this
19 section, the department may impose a civil fine of not more than
20 ____ dollars (\$____) per occurrence. In the event that a licensee
21 negligently, willfully, or wantonly fails to comply with these
22 requirements, the department may initiate an enforcement action
23 and subject a licensee to a civil fine of ____ dollars (\$____) and
24 may begin proceedings to suspend or revoke the licensee's license.

25 19990.32. The licensee is responsible for providing current
26 and accurate documentation on a timely basis to all state agencies,
27 as provided in this chapter.

28 (a) In addition to any other confidentiality protections provided
29 to persons licensed by the state, the state and its agencies shall
30 treat the proprietary information provided by a licensee as
31 confidential to protect the licensee and to protect the security of
32 the intrastate Internet gambling Web site.

33 (b) The confidentiality provisions of this chapter exempt
34 proprietary information supplied by a licensee to a state agency
35 from public disclosure consistent with subdivision (b) of Section
36 6253 of the Government Code.

37 19990.33. (a) Changes in ownership of the licensee shall be
38 approved by the department prior to the closing of any proposed
39 transaction.

(b) The department shall investigate to ensure that any person acquiring an interest in a licensee is suitable and otherwise financially, technically, and legally qualified to be a licensee consistent with this chapter. If an acquiring person is found to be unsuitable to be a licensee or otherwise not financially, technically, or legally qualified to be a licensee, the licensee or the acquiring person may challenge that determination consistent with subdivision (c) of Section 19990.25.

19990.34. All facilities, software, including downloadable programs, and any other property, both tangible and intangible, used by the licensee in offering authorized games for play on an intrastate Internet gambling Web site shall be the property of the licensee or its subcontractors, and shall be approved by the department.

19990.35. (a) A licensee shall ensure that registered players are eligible to play authorized games and implement appropriate data security standards to prevent access by a person whose age and location has not been verified in accordance with this chapter.

(b) A registered player shall be physically located within the State of California at the time of gambling.

(c) A registered player shall not be less than 21 years of age.

(1) Online games shall not be provided, directly or indirectly, to any person under 21 years of age.

(2) Each licensee shall do all of the following:

(A) Prior to registering a person as a registered player or permitting a person to play an authorized game, the licensee shall verify that the person is 21 years of age or older. The licensee or seller shall attempt to match the name, address, and date of birth provided by the person to information contained in records in a database of individuals who have been verified to be 21 years of age or older by reference to an appropriate database of government records. The licensee also shall verify that the physical billing address on the check or credit card offered for payment by the person matches the address listed in the database.

(B) If the licensee is unable to verify that the person is 21 years of age or older pursuant to subparagraph (A), the licensee shall require the person to submit an age-verification kit consisting of an attestation signed by the person that he or she is 21 years of age or older and a copy of a valid form of government identification. For the purposes of this section, a valid form of government

1 identification includes a driver's license, state identification card,
2 passport, official naturalization or immigration document, such as
3 an alien registration receipt card or an immigrant visa, or United
4 States military identification. The licensee also shall verify that
5 the physical billing address on the check or credit card provided
6 by the person matches the address listed in the government
7 identification.

8 (C) The licensee shall not permit registered players to make
9 payments by money order or cash. The licensee shall submit to
10 each credit card company with which it has credit card sales,
11 information in an appropriate form and format so that the words
12 "Internet gambling" may be printed on the purchaser's credit card
13 statement when a payment to a licensee is made by credit card
14 payment.

15 (3) If a licensee complies with the requirements of paragraph
16 (2), and a person under 21 years of age participates in an authorized
17 game provided by the licensee, the licensee is not in violation of
18 this section.

19 (4) The department may assess civil penalties against a person
20 that violates this section, according to the following schedule:

21 (A) Not less than one thousand dollars (\$1,000) and not more
22 than two thousand dollars (\$2,000) for the first violation.

23 (B) Not less than two thousand five hundred dollars (\$2,500)
24 and not more than three thousand five hundred dollars (\$3,500)
25 for the second violation.

26 (C) Not less than four thousand dollars (\$4,000) and not more
27 than five thousand dollars (\$5,000) for the third violation.

28 (D) Not less than five thousand five hundred dollars (\$5,500)
29 and not more than six thousand five hundred dollars (\$6,500) for
30 the fourth violation.

31 (E) Ten thousand dollars (\$10,000) for a fifth or subsequent
32 violation.

33 (d) The department shall, by regulation, provide a process for
34 a licensee to exclude from play any person who has filled out an
35 online self-exclusion form.

36 (1) The department shall develop an online self-exclusion form
37 within six months of the operative date of this chapter.

38 (2) The department shall deliver the form to each licensee.

39 (3) A licensee shall prominently display a link to the
40 department's Responsible Gambling Internet Web page and the

1 online self-exclusion form on the Internet Web page that is
2 displayed when either of the following occurs:

3 (A) A person registers as a registered player.

4 (B) Each time a registered player accesses the intrastate Internet
5 gambling Web site prior to playing.

6 (4) A licensee shall retain the online self-exclusion form to
7 identify persons who want to be excluded from play.

8 (5) A licensee that has made commercially reasonable efforts
9 to comply with this subdivision shall not be held liable in any way
10 if a person who has filled out an online self-exclusion form plays
11 despite that person's request to be excluded.

12 19990.36. A licensee shall only offer authorized games and
13 process bets in accordance with the specified game and betting
14 rules established by the licensee and approved by the department
15 pursuant to Sections 19990.14 and 19990.37.

16 19990.37. (a) In order to propose a game for play, a licensee
17 shall provide the department with both of the following:

18 (1) Game rules and betting rules it proposes to offer to
19 registered players.

20 (2) Documentation relating to development and testing of the
21 game's software.

22 (b) The department shall approve the game rules and betting
23 rules before a licensee may offer the game to registered players.

24 19990.38. (a) A licensee shall ensure that games are fair.

25 (b) The gaming system shall display for each game the following
26 information:

27 (1) The name of the game.

28 (2) Any restrictions on play.

29 (3) The rules of the game.

30 (4) All instructions on how to play.

31 (5) The unit and total bets permitted.

32 (6) The registered player's current account balance which shall
33 be updated in real time.

34 (7) Any other information that a licensee determines is necessary
35 for the registered player to have in real time to compete fairly in
36 the game.

37 (c) Data used to create game results shall be unpredictable so
38 that it is infeasible to predict the next occurrence in a game, given
39 complete knowledge of the algorithm or hardware generating the
40 sequence and all previously generated numbers.

1 (d) A licensee shall deploy controls and technology to minimize
2 fraud or cheating through collusion, including external exchange
3 of information between different players, robotic play, or any other
4 means.

5 (1) If a licensee becomes aware that fraud or cheating is taking
6 place or has taken place, it shall take steps to stop those activities
7 immediately and inform the department of all relevant facts.

8 (2) The department shall not impose liquidated damages against
9 a licensee to prevent fraud or cheating if the licensee can
10 demonstrate that it acted responsibly to prevent those activities as
11 soon as the licensee became aware of them.

12 (e) In a per hand game, if the gaming server or software does
13 not allow a game to be completed, the game shall be void and all
14 funds relating to the incomplete game shall be returned to the
15 registered player's account.

16 (f) In a tournament, if the gaming server or software does not
17 allow the tournament to be completed, all prize money shall be
18 distributed among players in accordance with the procedure
19 published by the licensee prior to the commencement of the
20 tournament.

21 19990.39. (a) A licensee shall register players and establish
22 player accounts prior to play.

23 (b) A person shall not participate in any game provided by a
24 licensee unless the person is a registered player and holds an
25 account.

26 (c) Accounts shall be established in person, or by United States
27 mail, telephone, or any electronic means.

28 (d) To register and establish an account, a person shall provide
29 the following registration information:

- 30 (1) Full legal name.
31 (2) Principal residence address.
32 (3) Telephone number.
33 (4) Social security number.
34 (5) Identification or certification to prove that person is at least
35 21 years of age.
36 (6) Valid email address.

37 (e) A licensee shall provide registered players with the means
38 to update the registration information provided to the licensee.

39 (f) Nothing in this section shall prevent a licensee from entering
40 into a marketing agreement with any third party to recruit people

1 to become registered players if the registration process described
2 in this section is under the sole control of the licensee.

3 19990.40. (a) A licensee shall provide a means for registered
4 players to put funds into a registered player account and transfer
5 funds out of that account.

6 (b) A registered player shall identify the source of funds to be
7 used to put money into the account established once the registration
8 process is complete, and a licensee shall provide a means for a
9 registered player to transfer money into and out of the player's
10 intrastate Internet gambling Web site account.

11 (c) At the time of establishing an intrastate Internet gambling
12 Web site account, a registered player shall designate the bank
13 account into which funds from the registered player's intrastate
14 Internet gambling Web site account are to be transferred.

15 (d) A registered player shall establish only one account on any
16 intrastate Internet gambling Web site.

17 (e) While playing an authorized game, a licensee shall not permit
18 a registered player to increase the amount of money in that
19 registered player's account after that hand has started and before
20 its completion.

21 (f) A licensee shall maintain records on the balance of each
22 registered player's account.

23 (g) A licensee shall not permit a registered player to place a
24 wager unless the registered player's account has sufficient funds
25 to cover the amount of the wager.

26 (h) A licensee shall not provide credit to a registered player's
27 account or act as agent for a credit provider to facilitate the
28 provision of funds.

29 (i) No interest shall be paid by a licensee with respect to
30 registered player accounts.

31 19990.41. (a) A licensee shall segregate funds it holds in all
32 registered player accounts from all of its other assets.

33 (b) A licensee shall not commingle funds in the segregated
34 account containing funds paid by registered players with any other
35 funds held by the licensee, including, but not limited to, operating
36 funds of the licensee. Both the accounts of the licensee and its
37 segregated registered player accounts shall be held in financial
38 institutions located in the state.

39 (c) Funds held in a registered player's account shall only be
40 used for the following purposes:

1 (1) To pay per hand or tournament charges owed by a registered
2 player to the licensee for play of authorized games.

3 (2) To transfer funds from one registered player's account to
4 the account of another registered player to reconcile the result of
5 a loss in the play of an authorized game.

6 (3) To transfer funds from a registered player's account to a
7 temporary account to be held by a licensee pending the outcome
8 of an authorized game.

9 (4) To remit tax proceeds due and owing from a registered player
10 to the Franchise Tax Board.

11 (5) To transfer funds from a registered player's account with
12 the licensee to an account specified by a registered player upon
13 that registered player's request.

14 19990.42. Prior to completing the registration process, a
15 licensee shall explain to the person who is registering in a
16 conspicuous fashion the privacy policies of the intrastate Internet
17 gambling Web site, and the person shall assent to the following
18 policies:

19 (a) No personally identifiable information shall be shared with
20 any nongovernment third parties except as provided in subdivision
21 (k) of Section 19990.47.

22 (b) All personally identifiable information about registered
23 players shall be shared with state agencies, including, but not
24 limited to, the department, the commission, the Franchise Tax
25 Board, and the Department of Child Support Services as necessary
26 to assist them in fulfilling their obligations.

27 (c) Personally identifiable information may be shared with
28 government agencies only as set forth in subdivision (b) or subject
29 to court order as provided in subdivision (j) of Section 19990.47.

30 19990.43. A licensee may require that a registered player, or
31 a person registering as a player, agree to a Terms of Use Registered
32 Player's Agreement.

33 19990.44. A licensee may suspend or revoke the account of a
34 registered player for any of the following reasons:

35 (a) A person or registered player provided false information to
36 the licensee, including, but not limited to, in the registration
37 process.

38 (b) The registered player has not updated registration
39 information to keep it current.

1 (c) The registered player has violated the intrastate Internet
2 gambling Web site's Terms of Use Registered Player's Agreement.

3 (d) The person has already been registered.

4 (e) The licensee suspects that the registered player has
5 participated in an illegal or unauthorized activity on the intrastate
6 Internet gambling Web site.

7 (f) The licensee is directed by a state agency to suspend or
8 revoke the registered player's account.

9 19990.45. (a) Upon registration, and each time a registered
10 player logs into an intrastate Internet gambling Web site, the
11 licensee shall permit a registered player to adjust his or her play
12 settings to:

13 (1) Set a limit on the deposits that can be made per day.

14 (2) Set a limit on the aggregate losses in a registered player's
15 account within a specified period of time.

16 (b) During play, in order to assist a registered player to decide
17 whether to suspend play, the registered player's screen shall do
18 all of the following:

19 (1) Once an hour, indicate how long the player has been playing
20 and the current value and change in value of the registered player's
21 total account since the time of last logging in.

22 (2) At least once every six hours, require the registered player
23 to confirm that the player has read the messages required in
24 paragraph (1), and give an option to the player to end the session
25 or return to the game.

26 19990.46. A licensee shall establish a toll-free telephone
27 customer service hotline that shall be available to registered players
28 24 hours per day, 365 days a year. All employees shall be
29 physically present in the state while in contact with registered
30 players. However, the licensee shall have discretion to use the
31 expertise of personnel not physically present in the state when
32 necessary to protect registered players and state interests, including,
33 but not limited to, for the purposes of diagnosing and addressing
34 technological problems, investigating fraud and collusion, and
35 supervising software and configuration changes. The licensee shall
36 give notice to the department when using personnel who are out
37 of state.

38 19990.47. (a) A licensee shall protect the privacy of registered
39 players and their personally identifiable information.

1 (b) A licensee shall comply with all state and federal privacy
2 and data protection laws.

3 (c) At the time of registration with a licensee as a registered
4 player, and at least once a year thereafter, a licensee shall provide
5 notice in the form of a separate, written statement, delivered via
6 United States Postal Service or electronic mail, to the registered
7 player that clearly and conspicuously informs the registered player
8 of all of the following:

9 (1) The nature of personally identifiable information collected
10 or to be collected with respect to the registered player and the
11 nature of the use of that information.

12 (2) The nature, frequency, and purpose of any disclosure that
13 may be made of personally identifiable information, including an
14 identification of the types of persons to whom the disclosure may
15 be made.

16 (3) The period during which personally identifiable information
17 will be maintained by the licensee.

18 (4) The times and place at which the registered player may have
19 access to personally identifiable information in accordance with
20 subdivision (h).

21 (5) The limitations provided by this section with respect to the
22 collection and disclosure of personally identifiable information by
23 a licensee and the right of the registered player under subdivision
24 (j) or (k) to enforce those limitations.

25 (d) A licensee shall not collect personally identifiable
26 information concerning any registered player without the prior
27 written or electronic consent of the registered player concerned.

28 (e) A licensee may collect personally identifiable information
29 in order to do both of the following:

30 (1) Obtain information necessary to operate the intrastate
31 Internet gambling Web site and offer authorized games to registered
32 players pursuant to this chapter.

33 (2) Detect unauthorized play, activities contrary to a licensee's
34 Terms of Use Registered Player's Agreement, or activities contrary
35 to state or federal law.

36 (f) Except as provided in subdivision (g), a licensee shall not
37 disclose personally identifiable information concerning any
38 registered player without the prior written or electronic consent of
39 the registered player concerned and shall take actions necessary

1 to prevent unauthorized access to that information by a person
2 other than the registered player or licensee.

3 (g) A licensee may disclose personally identifiable information
4 if the disclosure is any of the following:

5 (1) Necessary to render, or conduct a legitimate business activity
6 related to, the provision of authorized games to the registered
7 player by the licensee.

8 (2) Subject to subdivision (k), made pursuant to a court order
9 authorizing the disclosure, if the registered player is notified of
10 the order by the person to whom the order is directed.

11 (3) A disclosure of the names and addresses of registered players
12 to any tournament third party, if both of the following apply:

13 (A) The licensee has provided the registered player the
14 opportunity to prohibit or limit the disclosure.

15 (B) The disclosure does not reveal, directly or indirectly, the
16 nature of any transaction made by the registered player over the
17 intrastate Internet gambling Web site.

18 (4) To the department to fulfill its obligations under this chapter
19 or a state agency as authorized in this chapter.

20 (5) To persons found suitable under this chapter if the registered
21 player is notified and consents to the information being shared.

22 (h) A registered player shall be provided access to all personally
23 identifiable information regarding that registered player that is
24 collected and maintained by a licensee. The information shall be
25 made available to the registered player at reasonable times and at
26 a place designated by the licensee. A registered player shall be
27 provided reasonable opportunity to correct any error in the
28 information.

29 (i) A licensee shall destroy personally identifiable information
30 if the information is no longer necessary for the purpose for which
31 it was collected, and there are no pending requests or orders for
32 access to the information under subdivision (k).

33 (j) Any person aggrieved by any act of a licensee in violation
34 of this section may bring a civil action in any superior court in
35 California. The court may award:

36 (1) Actual damages but not less than the rate of ____ a day for
37 each day of violation or ____, whichever is higher.

38 (2) Punitive damages.

39 (3) Reasonable attorney's fees and other litigation costs
40 reasonably incurred.

1 (k) Except as provided in subdivision (g), a governmental or
2 nongovernmental third party may obtain personally identifiable
3 information concerning a registered player pursuant to a court
4 order only if, in the court proceeding relevant to the court order,
5 both of the following apply:

6 (1) The third party offers clear and convincing evidence that
7 the subject of the information is reasonably suspected of engaging
8 in criminal activity or otherwise relevant to a pending civil action
9 and that the information sought would be material evidence in the
10 case.

11 (2) The registered player about whom the information is
12 requested is afforded the opportunity to appear and contest the
13 third-party's claim.

14 19990.48. A licensee shall establish a book of accounts and
15 regularly audit all of its financial records and reports, which shall,
16 at a minimum, include all of the following:

17 (a) Monthly auditable and aggregate financial statements of
18 gambling transactions.

19 (b) Monthly calculation of all amounts payable to the state.

20 (c) The identity of registered players.

21 (d) The balance on each registered player's account at the start
22 of a session of play, the amount won or lost by each registered
23 player during a game, and the balance on the registered player's
24 account.

25 (e) The wagers placed on each game, time stamped by the games
26 server.

27 (f) The result of each game, time stamped by the games server.

28 (g) The amount, if any, as determined by the registered player,
29 withheld from winnings for federal or state income tax purposes.

30 19990.49. (a) A licensee shall make all financial records
31 established and maintained pursuant to Section 19990.48,
32 including, but not limited to, all books, records, documents,
33 financial information, and financial reports, available on an
34 electronic basis, as required by the department or other state
35 agencies so that those state agencies can fulfill their responsibilities
36 under this chapter. A state agency may request specific printed
37 hard copies of records for good cause.

38 (b) The licensee's data shall be retained in a manner by which
39 it may be accessed by the state agencies online.

(c) Notwithstanding subdivision (b), data covered by subdivisions (d), (e), and (f) of Section 19990.48 shall be accessible to the state agencies online for 120 days, and, thereafter, archived and retained for one year.

19990.50. (a) A licensee shall implement technical systems that materially aid the department in the protection of registered players. Software shall meet, at a minimum, international industry standards as verified by a department-approved gaming laboratory.

(b) A licensee shall define and document its methodology for developing software and applications and describe the manner in which software protects registered players from fraud and other risks in the play of authorized games and in the management of registered player accounts.

(c) A licensee shall meet minimum game server connectivity requirements to ensure that registered players are protected from losses due to connectivity problems.

(d) A licensee shall ensure that all transactions involving registered players' funds shall be recoverable by the system in the event of a failure or malfunction.

(e) All information required for reviewing a game interrupted due to loss of connectivity shall be recoverable by the licensee.

(f) Preventative and detective controls addressing money laundering and fraud risks shall be documented and implemented by the licensee.

19990.51. (a) A licensee may charge registered players to play in authorized games.

(b) Per hand charges are permitted.

(1) A per hand charge shall be designated and conspicuously posted on the intrastate Internet gambling Web site.

(2) A licensee may vary the per hand charges to registered players based on betting limits or other factors.

(c) Tournament charges shall be permitted.

(1) A tournament charge shall be designated and conspicuously posted on the intrastate Internet gambling Web site.

(2) A licensee may vary tournament charges based on tournament prizes or other factors.

(d) A licensee shall provide notice to the department of the charges to registered players prior to initiating play.

19990.52. A licensee may enter into an agreement with any third party to sponsor or underwrite prizes for a tournament.

1 19990.53. A licensee may enter into an agreement to sell
2 advertisement space on any Internet Web site it controls.

3 19990.535. (a) A licensee may enter into an agreement with
4 a third party for marketing, or any other purpose consistent with
5 this chapter, including, but not limited to, displaying the name of
6 a marketing partner on a screen viewed by a registered player.

7 (b) A licensee shall not utilize any brand or business name, trade
8 or service mark, software, technology, operational systems,
9 customer information, or other data acquired, derived, or developed
10 directly or indirectly from any operation that has knowingly and
11 willfully accepted any wager from persons in the United States on
12 any form of Internet gaming that has not been affirmatively
13 authorized by law in this state or the United States after December
14 31, 2006. To the extent any business relationships or financial
15 arrangements were utilized or existed to further any such illegal
16 Internet gambling, those relationships and arrangements shall be
17 discontinued.

18 19990.54. A licensee may enable a chat function between
19 registered players if it has in place effective controls against
20 collusion.

21 19990.55. A licensee may post Internet Web links on the
22 Internet Web sites it controls to permit registered players to access
23 remote Internet Web sites.

24 19990.56. A licensee may enter into contractual agreements
25 with one or more licensees for the purpose of ensuring adequate
26 player liquidity.

27 19990.57. A licensee may allow a registered player to
28 participate simultaneously in multiple games or tournaments, if
29 the licensee has demonstrated to the department that it has technical
30 controls that prohibit a registered player from playing multiple
31 hands simultaneously in the same game.

32 19990.58. (a) Before the collection of a registered player fee,
33 wager, or deposit on any authorized game on the licensee's
34 intrastate Internet gambling Web site, the licensee shall remit to
35 the Treasurer for deposit in the General Fund a one-time license
36 fee in the amount of thirty million dollars (\$30,000,000). This
37 amount shall be credited against fees imposed pursuant to
38 subdivision (b) on the licensee's gross gaming revenue proceeds
39 for the first five years of operation. Upon depletion of the license

1 fee, the department shall notify the licensee to commence monthly
2 payments to the state in accordance with subdivision (b).

3 (b) A licensee shall remit to the Treasurer on a monthly basis
4 for deposit in the General Fund, an amount equal to 10 percent of
5 its gross revenues.

6 (1) Each monthly payment shall be due on the 10th day of the
7 following month.

8 (2) A licensee shall make all electronic and written financial
9 records available to the Treasurer, the commission, and the
10 department on an electronic basis.

11 (3) For the purposes of determining gross revenues, the licensee
12 and the Treasurer shall use generally accepted accounting
13 principles.

14 (c) Each licensee shall pay a regulatory fee, to be deposited in
15 the Internet Gambling Fund as established by Section 19990.86,
16 in an amount to be determined by the department for the actual
17 costs of license oversight, consumer protection, state regulation,
18 problem gambling programs, and other purposes related to this
19 chapter.

20 19990.59. (a) The licensee shall facilitate the collection of
21 personal income taxes from registered players by the Franchise
22 Tax Board.

23 (b) The licensee shall withhold 5 percent of tournament winnings
24 for state income tax if the winnings less the tournament charge are
25 more than six hundred dollars (\$600) and are at least 300 times
26 the tournament charge.

27 (1) The licensee shall transfer that withheld income to the
28 Franchise Tax Board.

29 (2) Winnings and losses of the registered player from other
30 tournaments sponsored by the licensee during the year are not
31 taken into account in arriving at the six-hundred-dollar (\$600)
32 amount. Required withholding is determined on a
33 tournament-by-tournament basis.

34 (c) Within six months of the operative date of this chapter, the
35 Franchise Tax Board shall publish a form to be used annually by
36 a licensee to report information concerning income tax revenues
37 from registered players. The Franchise Tax Board shall provide a
38 date by which the form is required to be filed. The form shall
39 include, but shall not be limited to, the following information:

40 (1) The registered player's first name and surname.

1 (2) Social security number.

2 (3) The total amount the registered player deposited in his or
3 her account during the year.

4 (4) The registered player's total winnings, if any, during the
5 year.

6 (5) The registered player's total losses, if any, during the year.

7 (6) The total amount withheld by the licensee, if any, during
8 the year for purposes of federal or state income taxes.

9 (7) Whether the registered player opened or closed his or her
10 account during the year.

11 (d) The licensee shall electronically file a copy of the form with
12 the Franchise Tax Board for each registered player who held an
13 account with the licensee for all, or any portion of, the taxable
14 year. The licensee shall electronically provide each registered
15 player with a copy of the form.

16 19990.60. A security interest in a licensee, other than a security
17 interest in financed or leased equipment, shall not be enforced
18 except in conformity with regulations adopted by the commission.
19 If a licensee contracts to acquire or transfer any assets or property
20 in circumstances where the transferor or transferee must be licensed
21 or found suitable, then the transaction shall not have a closing date
22 prior to the approval or licensing of the other party, except as
23 provided in regulations of the commission.

24 19990.61. (a) A licensee shall act expeditiously to cure any
25 violation of this chapter, or any regulation adopted pursuant to this
26 chapter, in the offer or administration of authorized games that
27 interferes with its obligations to the state or registered players
28 under this chapter.

29 (b) If a licensee becomes aware of any violation, it shall notify
30 the department immediately and work with the department to
31 develop a plan to rectify the violation.

32 (c) If the department becomes aware of any violation, or if it
33 becomes aware of any activities that might lead to a violation, the
34 department shall provide notice of that violation to the licensee
35 and a reasonable opportunity to cure the violation.

36 (d) All state agencies with responsibilities under this chapter
37 shall report any actual or suspected violation of this chapter, or
38 any regulation adopted pursuant to this chapter, or activities that
39 may lead to such a violation, to the department immediately so

1 that the department can assess whether it needs to commence an
2 investigation or enforcement action.

3 (e) A licensee shall be afforded a reasonable time period to cure
4 any reported violation. The department may assess penalties for
5 any violation of this chapter, or any regulation adopted pursuant
6 to this chapter.

7 (f) The department shall have the subpoena power in an
8 investigation of any violation of this chapter, or any regulation
9 adopted pursuant to this chapter.

10 (g) The department may revoke or suspend any license or work
11 permit under this chapter upon reaching a finding that the licensee
12 or employee is in violation of any provision of this chapter, or any
13 regulation adopted pursuant to this chapter.

14 (h) A licensee may appeal any decision of the department
15 pursuant to this section to the superior court. The superior court
16 shall hear any appeal de novo.

17 19990.62. The department shall protect the rights and assets
18 of registered players on an intrastate Internet gambling Web site
19 if the licensee's license pursuant to this chapter is revoked or the
20 licensee becomes bankrupt.

21 19990.63. (a) A licensee shall at all times indemnify, defend,
22 and hold harmless the state and its agencies from and against any
23 claims, damages, liabilities, costs, and expenses, including, but
24 not limited to, reasonable attorney's fees and expenses arising out
25 of any third-party claim made against the state or any of its
26 agencies relating to actions of the licensee and this chapter.
27 However, the state shall not enter into a settlement agreement
28 related to any of those claims, damages, liabilities, costs, or
29 expenses without the prior written approval of the licensee.

30 (b) The state and its agencies shall promptly notify a licensee
31 of any claim or litigation to which the indemnity set forth in
32 subdivision (a) applies.

33 (c) At the option of a licensee, it may assume the defense of
34 any claim or litigation. If a licensee assumes the defense of any
35 claim or litigation, the licensee's obligation with respect thereto
36 shall be limited to the payment of any settlement approved by the
37 licensee, or any judgment in connection with that claim or
38 litigation.

Article 6. Authority of State Agencies

19990.70. (a) (1) Within 120 days after the operative date of this chapter, the commission, and any other state agency with a duty pursuant to this chapter, shall, in order to comply with time deadlines, in consultation with the department, adopt regulations to implement this chapter, and to facilitate the operation of intrastate Internet gambling Web sites and expedite the state's receipt of revenues in compliance with this chapter. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the commission and those other state agencies are hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the commission and those other state agencies shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code, but shall promulgate permanent regulations in accordance with all applicable law.

(2) The regulations adopted by the commission shall address underage gambling and problem gambling.

(3) The regulations of the commission also shall provide for temporary or provisional approvals, licenses, or certificates for heirs, executors, receivers, trustees, conservators, key employees, and other persons where an approval, license, or certificate is required.

(b) (1) Each state agency with a duty pursuant to this chapter shall identify a contact person at that agency and describe the responsibility of the contact with respect to the state agency's duty.

(2) Any notice provided by a licensee to a state agency pursuant to this chapter shall be addressed to the contact identified by the state agency pursuant to paragraph (1).

(3) Unless otherwise provided by this chapter, notice by a licensee to the state shall be deemed effectively given upon personal delivery, three days after deposit in the United States mail by certified or registered mail, return receipt requested, one business day after its deposit with any return receipt express

1 courier, prepaid, or one business day after electronically confirmed
2 transmission by facsimile.

3 19990.71. The Legislature may, by a statute adopted by a
4 majority vote of both houses, do either of the following:

5 (a) Opt out of, or opt into, any federal framework for Internet
6 gambling.

7 (b) If the United States Department of Justice notifies the
8 department in writing that it is permissible under federal law, enter
9 into any agreement with other states or foreign jurisdictions to
10 provide Internet gambling.

11 19990.72. The department may outsource its regulatory
12 functions under this chapter where optimal to provide efficient,
13 effective, and robust regulation with access to worldwide expertise
14 tested and proven in the gambling industry. This may include, but
15 is not limited to, state and international regulatory agencies. To
16 expedite the implementation of Internet gambling, contracts
17 pursuant to this section shall not be subject to otherwise applicable
18 provisions of the Government Code or the Public Contract Code
19 and, for those purposes, the department shall not be considered a
20 state agency or public entity.

21 22 Article 7. Protection of Registered Players 23

24 19990.75. A licensee shall use its best efforts to protect
25 registered players. Subject to the approval of the department, and
26 consistent with uniform standards established by the department
27 by regulation, each licensee shall establish administrative
28 procedures to resolve registered player complaints.

29 19990.76. If a registered player has a complaint against a
30 licensee, the exclusive remedy shall be to register the complaint
31 with the department, unless an action is brought pursuant to
32 subdivision (j) of Section 19990.47.

33 19990.77. (a) The department, in consultation with the
34 commission, shall establish regulations with respect to registered
35 player complaints.

36 (b) Under the regulations, the department shall do all of the
37 following:

38 (1) Investigate registered player complaints to determine if a
39 licensee has failed to meet its obligations to a registered player.

1 (2) Attempt to resolve complaints by registered players if a
2 licensee fails to meet an obligation to a registered player.

3 (3) Initiate enforcement actions to require specific performance
4 of any obligation that a licensee has to a registered player and
5 payment by the licensee of restitution to a registered player for
6 actual losses and interest thereon.

7 19990.78. A licensee may appeal any action by the department
8 pursuant to this article to the superior court, which shall review
9 the appeal de novo.

10
11 Article 8. Disposition of State Regulatory Proceeds
12

13 19990.86. (a) The Treasurer shall transfer all amounts received
14 from a licensee pursuant to subdivision (c) of Section 19990.58
15 to the Controller for deposit in the Internet Gambling Fund, which
16 is created in the State Treasury, to be administered by the
17 Controller, subject to annual appropriation by the Legislature.
18 These amounts shall not be subject to the formulas established by
19 statute directing expenditures from the General Fund.

20 (b) The state agencies shall submit revenue needs to fulfill their
21 obligations under this chapter for the upcoming fiscal year to the
22 Senate Committee on Budget and Fiscal Review and the Assembly
23 Committee on Budget, as well as the Senate and Assembly
24 Committees on Governmental Organization and the Department
25 of Finance on or before March 31 of the preceding fiscal year. A
26 justification of those costs shall be provided with each submission
27 of revenue needs.

28 (c) The State Department of Alcohol and Drug Programs, Office
29 of Problem Gambling, shall submit revenue needs for programs
30 to alleviate problem gambling that results from the offering of
31 authorized games for the upcoming fiscal year to the Senate
32 Committee on Budget and Fiscal Review and the Assembly
33 Committee on Budget, as well as the Senate and Assembly
34 Committees on Governmental Organization, the Senate and
35 Assembly Committees on Human Services, and the Department
36 of Finance on or before March 31 of the preceding fiscal year. A
37 justification of those costs shall be provided with each submission
38 of revenue needs.

(d) All remaining proceeds not allocated to subdivisions (b) and (c) shall remain in the Internet Gambling Fund subject to appropriation by the Legislature.

Article 9. Preemption of Local Regulation

19990.90. A city, county, or city and county shall not regulate, tax, or enter into a contract with respect to any matter related to this chapter. This section shall not prohibit or limit the investigation and prosecution of any violation of this chapter.

Article 10. Reports to the Legislature

19990.95. Notwithstanding Section 10231.5 of the Government Code, within one year of the operative date of this chapter and, annually thereafter, the department, in consultation with the commission, the Treasurer, and the Franchise Tax Board, shall issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this chapter. The report shall be submitted in compliance with Section 9795 of the Government Code.

19990.96. (a) At least four years after the issue date of any license pursuant to this chapter, but no later than five years after that date, the Bureau of State Audits shall issue a report to the Legislature detailing the implementation of this chapter. The State Auditor may advise the Legislature on any recommendations regarding the terms of licensure, including the consideration paid to the state, the economic and operational impacts upon the licensee and the state, and any other issues that may be relevant to the state's decision whether to impose modifications on existing licensees' fees or terms of licensure. The report may also advise the Legislature as to any proposed changes to Article 5 (commencing with Section 19990.30) of this chapter.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2020.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Chapter 5.2 (commencing with Section

1 19990.01) to Division 8 of the Business and Professions Code,
2 imposes a limitation on the public's right of access to the meetings
3 of public bodies or the writings of public officials and agencies
4 within the meaning of Section 3 of Article I of the California
5 Constitution. Pursuant to that constitutional provision, the
6 Legislature makes the following findings to demonstrate the interest
7 protected by this limitation and the need for protecting that interest:

8 The limitations on the people's rights of access set forth in this
9 chapter are necessary to protect the privacy and integrity of
10 information submitted by the registered players as well as the
11 proprietary information of the license applicants and licensees.

12 SEC. 3. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

21 SEC. 4. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the Constitution and shall go into
24 immediate effect. The facts constituting the necessity are:

25 In order to protect the interests of Californians who play online
26 gambling games and to ensure that people play fair games, that
27 the state realizes the revenues, and that suitable persons operate
28 intrastate Internet gambling Web sites, it is necessary that this act
29 take effect immediately.